IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE DR JUSTICE G.YETHIRAJULU**

**WRIT PETITION NO : 20721 of 2004**

Between:

1 B.Kishan, s/o Sri B.Tukaram,
r/o Nacharam, Secunderabad.
2 K.Omkara Chary, s/o Sri Gopaiah,
r/o 6-7-192, Shivajinagar, Nalgonda.
3 N.Ammilal, s/o Ganya,
c/o Food Corporation of India, District Office, Khammam,
Khammam District.
4 B.Biksham, s/o Sri B.Papaiah,
c/o F.C.I.District office-Khammam, Khammam District.

**..... PETITIONERS**

AND

1 The Senior Regional Manager, Food Corporation

of India, A.P.Region, Haca bhawan, Hyderabad.
2 The District Manager, Food Corporation of India,

Nalgonda District office, Nalgonda District.
3 The District Manager, Food Corporation of India,

District Office-Tarnaka, Hyderabad.
4 The District Manager, Food Corporation of

India, Khammam, Khammam District.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order direction or writ particularly one in the nature of writ of mandamus or any other appropriate writ i) declaring the action of the respondents in ordering for recovery of money from the petitioner towards transit losses, full bag shortages without conducting detailed enquiry as required under Rule 58 of the FCI staff Regulations 1971 is illegal (ii) declare the action of the second respondent in

passing final orders of recovery vide orders No.Vig.3(1)/2001/14 dated 28-9-2004, Vig.3(1)/2001/6 dated 29-9-2004, vig.3(1)/2001/21 dated 28-9-2004 and Vig.3(1)/2001/22 dated 28-9-2004 respectively in respect of petitioners is illegal and arbitrary and consequently set aside the same.

**Counsel for the Petitioner: MR.G.VIDYASAGAR**

**Counsel for the Respondents: MR.ANJANEYULU, SC FOR FCI**

**The Court at the stage of admission made the following:**

**HONOURABLE Dr. JUSTICE G.YETHIRAJULU**

WRIT PETITION NO.20721 OF 2004

**ORDER:**

At the request of the learned counsel appearing on both sides, the main writ petition is taken up for hearing and disposal.

**2.** This Writ petition is filed to declare the action of the respondents in ordering for recovery of money from the petitioner towards transit losses, full bag shortages without conducting detailed enquiry as required under Rule 58 of the F.C.I Staff Regulations 1971, as illegal and to declare the action of the second respondent in passing final orders of recovery vide orders No.Vig.3(1)/2001/14 dated 28.9.2004, Vig.3(1)/2001/6 dated 29.9.2004, Vig.3(1)/2001/21 dated 28.9.2004 and Vig.3(1)/2001/22 dated 28.9.2004 respectively in respect of petitioners as illegal and arbitrary and to set aside the same.

**3.** It is brought to the notice of this Court by the learned standing counsel appearing for the respondents that as against the impugned order statutory appeal lies to the first respondent within forty five days from the date of receipt of the said order. The learned standing counsel also submitted that till the disposal of the appeal, they will not pursue the recovery of monthly installments from the petitioners.

**4.** Therefore, without going into the merits of the case, as there is a statutory right of appeal against the impugned order, this Court is of the view that the petitioners can,

as well avail the remedy by filing the appeal before the competent authority.

**5.** In the result the writ petition is disposed of directing the petitioners to file statutory appeals before the competent authority, which shall be considered and disposed of by the appellate authority within three months from the date of filing of the appeal. In the meanwhile, the respondents are directed not to recover the monthly installments from the petitioners in pursuance of the impugned proceedings. No order as to costs.

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Dr. G.YETHIRAJULU, J

10th November, 2004

SKM

TO

1 The Senior Regional Manager, Food Corporation of India,
A.P.Region, Haca bhawan, Hyderabad.
2 The District Manager, Food Corporation of India,

Nalgonda District office, Nalgonda District.
3 The District Manager, Food Corporation of India,

District Office-Tarnaka, Hyderabad.
4 The District Manager, Food Corporation of

India, Khammam, Khammam District.

5 Two C.D. Copies.